

04-11-05

RCE/3629
ZWW

PTO/SB/30 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Request for Continued Examination (RCE) Transmittal

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	09/475,961
Filing Date	December 30, 1999
First Named Inventor	Timothy Jay Smith
Art Unit	3629
Examiner Name	Woo, Richard Sukyoon
Attorney Docket Number	9D-EC-19335

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.

Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCES (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

- a. Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

- i. Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
ii. Other _____

- b. Enclosed

- | | |
|---|--|
| i. <input type="checkbox"/> Amendment/Reply | iii. <input type="checkbox"/> Information Disclosure Statement (IDS) |
| ii. <input type="checkbox"/> Affidavit(s)/ Declaration(s) | iv. <input checked="" type="checkbox"/> Other <u>Return Receipt Postcard</u> |

2. **Miscellaneous**

- a. Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a

- b. period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
Other Copy of Improper Request for Continued Examination (RCE) (2 pgs.)

3. **Fees** The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

- The Director is hereby authorized to charge the following fees, or credit any overpayments, to

- a. Deposit Account No. 01-2384. I have enclosed a duplicate copy of this sheet.

- i. RCE fee required under 37 CFR 1.17(e) (\$790.00)

- ii. Extension of time fee (37 CFR 1.136 and 1.17) *Applicants respectfully Petition herewith for a three-month extension of time, to extend the due date of this response to the Office Action from January 8, 2005, through and including April 8, 2005. The Commissioner is hereby authorized to charge Deposit Account No.: 01-2384 for the three-month extension of time fee under 37 CFR 1.17(a)(3) of \$1,020.00.*

- iii. Other _____ enclosed

- b. Check in the amount of \$ _____

- c. Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature		Date	April 8, 2005
Name (Print/Type)	Patrick W. Rasche	Registration No.	37,916

CERTIFICATE OF Express Mail

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as Express Mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below. **Express Mail No: EV504788471US**

Signature		Date	April 8, 2005
Name (Print/Type)	Patrick W. Rasche	Registration No.	37,916

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

04/12/2005 EAREGAY1 00000043 012384 09475961

01 FC:1801 790.00 DA
02 FC:1253 1020.00 DA



UNITED STATES PATENT AND TRADEMARK OFFICE

COPY

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/475,961	09/16/2002	TIMOTHY JAY SMITH	9D-EC-19335	7120	
7590	02/23/2005	EXAMINER			
John S. Beulick Armstrong Teasdale LLP One Metropolitan Square, Suite 2600 St. Louis, MO 63102				ART UNIT	
				PAPER NUMBER	

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

APPLICATION NUMBER

FILING DATE

FIRST NAMED APPLICANT

ATTY. DOCKET NO./TITLE



DATE MAILED:

NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)

The request for continued examination (RCE) under 37 CFR 1.114 filed on 3/08/05 is improper for reason(s) indicated below:

- 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- 3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
- 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
- 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on _____. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
- 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
- 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

Note: If a request for a continued prosecution application (CPA) under 37 CFR 1.53(d) has been filed in the utility or plant application (including a previously filed CPA) that was filed on or after May 29, 2000, the request for a CPA has been treated as a RCE because the CPA practice no longer applies to such application. The constructive RCE, however, is improper for reason(s) indicated above.

A copy of this notice **MUST** be returned with any reply.

Direct the reply and any questions about this notice to:


M. Gross

, Examining Group

703-305-3920

(703) 30

FORM PTO-2051 (Rev. 3/2001)

BEST AVAILABLE COPY